

Cevc *et al.*
Application No. 09/890,335
Supplemental Amendment to RCE filed November 19, 2007

Attorney Docket No. 2200437.123US1

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REMARKS**1. Interview Summary**

Applicants are filing this supplemental amendment to the Request for Continued Examination after a telephonic interview with Supervisory Examiner Shannon Foley and Examiner Brian Gangle on January 17, 2008. The interview was also attended by Dr. Kerner, Applicant's legal representative, Dr. Chavous, the inventor, Dr. Gregor Cevc, and his European patent attorney, Dr. Martin Grund—who did not participate in the interview. During the interview, the rejections of the claims were discussed. Supervisory Examiner Foley and Examiner Gangle indicated that certain rejections would be withdrawn. In particular, the § 112, first paragraph, written description rejection as well as the § 112, second paragraph, rejections of “derived from” and “pure or purified” would be withdrawn.

Dr. Cevc then described the nature of the invention and answered certain questions regarding the claims. Examiner Gangle explained that the enablement rejection could be overcome with an amendment to claim 37 such that the claim recited a “transdermal immunogenic composition” so long as this amendment was acceptable to the inventor and had support in the specification.

Examiner Gangle discussed certain § 112, second paragraph, rejections, and suggested removing the term “low molecular weight irritant” from the claims. Applicants agreed with this course of action. Applicants also agreed to cancel claim 67. With regard to the phrase “penetrant being in the form of a minute fluid droplet surrounded by a coating of one or more layers of at least 2 substances that differ by at least a factor of 10 in solubility,” Applicants agreed to submit a § 132 Declaration on the meaning of this phrase.

Applicants discussed the § 103 rejection of the claims, explaining their position regarding the Paul and Glenn references. Examiner Gangle stated that a § 132 declaration showing unexpected results that were commensurate with the scope of the claimed invention is required. Applicants agreed to file a declaration.

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2. *Amendments to the Claims*

Claims 37-79 are pending in this case. Claims 46, 49, 51-54, 56, 57, 61, and 68-79 have been withdrawn from prosecution and claim 39 has been canceled in a previous amendment. Claim 37 has been amended to recite "a transdermal antigenic composition". Support for this amendment can be found, *inter alia*, in the claims as originally filed, and in the specification on page 10, third paragraph; page 27, fifth paragraph; and Examples 1-21. Claim 67 has been canceled by this amendment. Claims 44, 58, and 60 have also been canceled. After entering this amendment, claims 37, 38, 40-43, 45, 47, 48, 50, 55, and 62-66, and 68 will be pending.

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CONCLUSIONS

In view of the arguments set forth above, Applicants respectfully submit this supplemental amendment to address certain of the rejections in the Office Action mailed on July 18, 2007.

No additional fees are believed to be due in connection with this response. However, please charge any underpayments or credit any overpayments to Deposit Account No. 08-0219.

If the Examiner believes that any further discussion of this communication would be helpful, please contact the undersigned at the telephone number provided below.

Respectfully submitted,

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February 6, 2008
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